14

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CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

PRINCIPAL BENCH, WEST BLOCK No.2, R.K.PURAM, NEW DELHI - 110066

CUSTOMS APPEAL BRANCH

Appeal No. ST/1475/2010 - CU[DB]
ST/S/3089/2010

Date **05/08/2011**

Assistant Registrar
C.E.S.T.A.T, New Delhi

To :
M/S UNITECH MACHINES LTD.,
10TH KM, DELHI ROAD, SAHARANPUR (U.P.)
247001

M/S UNITECH MACHINES LTD., Appellant

Vs

C.C.E. MEERUT I Respondent

I am directed to transmit herewith a certified copy of **Final order No.ST/336/ 2011 CU[DB]** dated 15.07.2011 passed by the Tribunal under **Section 129, (B) of the Customs Act,1962 & Financial Act 1994 relating to Service Tax**

Alongwith Stay Order No ST/493/2011

Assistant Registrar
(Customs Appeal Branch)

Copy to :

1. Respondent
C.C.E. MEERUT I
EXCISE CHOWK,OPPOSITE
CHOUDHARY CHARAN SINGH
UNIVERSITY MANGAL PANDAY
NAGAR, MEERUT - 250005.
2. Adv. / Consult
MR.AALOK ARORA, ADVOCATE
82-MISSION COMPOUND,
SAHARANPUR-247001 (U.P.)
3. C.D.R
4. Bar association, CESTAT, New Delhi
5. Director Publications, Customs, Excise. I.P. Estate, New Delhi
6. M/s Centax Publictions Pvt Ltd., 1512-B, Bhishm Pitamah marg, Opp. ICICI Bank of Defence Colony, New Delhi -
7. Company Law Institute of India Pvt Ltd.,No.2(Old No. 36), Vaithyaram Street, T. Nagar,Chennai -17
8. Taxmann Allied Service Pvt Ltd., 59/32, New Rohtak Road, New Delhi - 110005
9. Easy Service Tax Online Dot Com Pvt.Ltd.407A,Iscon Mall,Above Star India Bazar,Satellite Road, Ahmedabad-15
10. LAWCRUX Advisors Pvt Ltd. LAW House.1-8,Sector - 10, Faridabad 121003 (Haryana)
11. TaxIndiaOnline.com Pvt Ltd., Unit No.1, 2nd Floor,Vasant Arcade,Nelson Mandela Road, Vasant Kunj, New Delhi - 110070
12. Office Copy
13. Guard file

Assistant Registrar
(Customs Appeal Branch)

IN THE CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi – 110 066.
COURT NO. IV

Date of Hearing : 15.7.2011

Service Tax Stay No. 3089 of 2010 and Service Tax Appeal No. 1475 of 2010

[Arising out of common Order-in-Appeal No. 115-CE/MRT-I/2010-11 dated 30.6.2010 passed by the Commissioner (Appeals), Central Excise, Meerut-I]

Coram:
Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri Mathew John, Member (Technical)

1.	Whether Press Reporter may be allowed to see the Order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?	Yes
2.	Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?	No
3.	Whether their Whether their Lordships wish to see the fair copy of the order?	Seen
4.	Whether order is to be circulated to the Department Authorities?	No

M/s Unitech Machines Ltd. — Appellant

Vs.

CCE, Meerut-I — Respondent

Appearance:

Appeared for Appellant : Shri Alok Arora, Advocate

Appeared for Respondent : Shri K.K. Jaiswal, SDR

Coram:

Hon'ble Shri S.S. Kang, Vice President
Hon'ble Shri Mathew John, Member (Technical)

Stay order No. ST/493/11
Final Order No. ST/336/11 dated 15.7.11

Per **S.S. Kang** :

Heard both sides.

2. The applicant filed this application for waiver of pre-deposit of amount of Service Tax of Rs.3,67,535/- interest and penalties. The demand is confirmed on the ground that the applicant received taxable service from the foreign service tax provider during the period 2004-05 to 2006-07.

3. As this issue is already settled by the Hon'ble Supreme Court in the case of **Union of India Vs. India National Shipowners Association** reported in 2010 (17) STR J57(SC), we take up the appeal after waiving the pre-deposit of amount of Service Tax, interest and penalty.

4. The Hon'ble Bombay High Court in the case of **Indian National Shipowners Association Vs. Union of India** reported in 2009 (13) STR 235 (Bom.) held that only after 18.4.2006, the recipient in India is liable to pay Service Tax for service received from abroad. The Supreme Court dismissed the appeal filed by Revenue reported as 2010 (17) STR J57(SC). In view of the above, the appellants are liable to pay Service Tax from 18.4.2006 being recipient in respect of received service from abroad. In the present case, ~~the same~~ a part of the period in dispute is after 18.4.2006. Therefore, the impugned order is set aside and the matter is remanded to the Adjudicating Authority to look into the issue afresh whether appellant has received any taxable service from abroad after 18.4.2006.

Both sides are at liberty to produce evidence in support of their contention. The appeal is disposed of by way of remand.

(Dictated & pronounced in open Court)

(S.S. Kang)
Vice President

(Mathew John)
Member (Technical)

RM